

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF A PETITION FOR
AN ADMINISTRATIVE INJUNCTION
INVOLVING:

HAO PHAM,
RESPONDENT

FINAL DECISION AND ORDER
LS0007242RAL

The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 4th day of October, 2000.

Marlene A. Cummings, Secretary
Department of Regulation and Licensing

IN THE MATTER OF A PETITION

FOR AN ADMINISTRATIVE INJUNCTION INVOLVING

HAO PHAM,

RESPONDENT

PROPOSED DECISION AND ORDER

LS0007242RAL

PARTIES

The parties to this action under section 227.44 of the Wisconsin Statutes and chapter RL 3 of the Wisconsin Administrative Code, and for purposes of review under §227.53, Wis. Stats., are:

Complainant:

Division of Enforcement

Department of Regulation and Licensing

1400 East Washington Avenue

Madison, WI 53703

Respondent:

Hao Pham

5933 North 61st Street

Milwaukee, WI 53218

also c/o Nails U Luv

17800 West Bluemound Road

Brookfield, WI 53045

PROCEDURAL HISTORY

On July 24, 2000, the Division of Enforcement, by its attorney Steven M. Gloe, filed a petition for an administrative injunction. A hearing on the petition was scheduled for September 7, 2000. A copy of the petition and a notice of hearing were sent to Ms. Pham on July 24, 2000, by certified mail to her last known address.

Ms. Pham failed to file an answer to the petition. The hearing on the petition was held as scheduled. Ms. Pham did not appear. Mr. Gloe appeared on behalf of the Department of Regulation and Licensing.

Based on the entire record of this case, this is the proposed decision and order of the undersigned administrative law judge.

FINDINGS OF FACT

1. Hao Pham does not hold a license to practice as a manicurist in the State of Wisconsin.
2. On May 17, 2000, Ms. Pham was engaged in the practice of manicuring at Nails U Luv, a manicuring establishment located at 17800 West Bluemound Road in Brookfield, Wisconsin.
3. On July 24, 2000, the Department of Regulation and Licensing (Department) sent a Petition For Injunction by certified mail to Hao Pham at her last known address. Ms. Pham did not file an answer to

the Petition.

CONCLUSIONS OF LAW

1. Hao Pham engaged in the practice of manicuring in Wisconsin without the required credential contrary to §454.04 (1) (d), Wis. Stats.

ORDER

THE DEPARTMENT OF REGULATION AND LICENSING HEREBY ISSUES THE FOLLOWING SPECIAL ORDER:

Effective on the date on which this order is signed by the Department Secretary or her designee,

- the respondent, Hao Pham, is **enjoined and prohibited** from engaging, directly or indirectly, in manicuring, which is conduct requiring a credential under Chapter 454, Wis. Stats., unless and until she obtains the appropriate credential under Chapter 454, Wis. Stats.; and

ANY VIOLATION OF THIS SPECIAL ORDER MAY RESULT IN A FORFEITURE OF UP TO \$10,000 FOR EACH OFFENSE, WITH EACH DAY OF CONTINUED VIOLATION CONSTITUTING A SEPARATE OFFENSE.

OPINION

On May 17, 2000, Ms. Pham was employed at Nails U Luv in Brookfield, Wisconsin, to provide manicuring services to the public. She was observed on that same date manicuring a customer's nails at Nails U Luv. Ms. Pham was not licensed as a manicurist at the time she was observed, nor is she presently licensed as a manicurist.

The Department subsequently served a Petition For Injunction on Ms. Pham by certified mail on July 24, 2000. Ms. Pham failed to appear at her scheduled hearing and did not file an answer with the Department. She is therefore in default and has effectively admitted all the allegations contained in the Petition.

It is undisputed that Ms. Pham engaged in the practice of manicuring without the professional credential required by statute. Section 440.21, Wis. Stats., authorizes the Department to seek a special order enjoining anyone from practicing without a professional credential. Such an order is clearly appropriate here.

Any person who violates a special order issued under section 440.21(2), Stats., may be required to forfeit up to \$10,000 for each offense, under section 440.21(4), Stats., and each day of continued violation constitutes a separate offense.

Dated at Madison, Wisconsin, this 8th day of September, 2000.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING

1400 East Washington Avenue

Madison, Wisconsin 53703

Jacquelynn B. Rothstein

Administrative Law Judge